

REMARKS

In response to the Office Action dated February 20, 2008, applicant submits the following amendments and remarks.

Claims 126-139 and 183 are canceled without prejudice and without disclaimer of the subject matter disclosed therein. Claim 117 is amended to correct a minor typographical error. Reconsideration and allowance of the above-referenced application are respectfully requested in light of the following remarks.

Request for Information

The Examiner requested that the application provide copies of the following references:

- a. Energy Analysis Module (EAM) Working Specification
- b. EAM Software Developers Kit (SDK); and
- c. The Green Building XML (gbXML) Schema and Documentation.

Copies of the EAM Working Specification and the gbXML are included in a separate Information Disclosure Statement. A web page login to access the EAM SDK is included in the IDS in lieu of the EAM SDK. According to John F. Kennedy, the EAM SDK was only provided to third parties who executed a Non-Disclosure Agreements (NDA) requiring the SDK to be treated as confidential. In addition, according to John F. Kennedy, the SDK was not provided to the California Energy Commission.

Claim Objections

Claims 182 and 183 stand objected to providing a first representation of the building, wherein the first representation of the building includes a complete and detailed geometry of: the building, spaces in the building, building surfaces and building openings; because they are allegedly duplicate claims. Claim 183 has been canceled in this response.

Section 102 Rejections

Claims 1, 3-6, 9-15, 17-23, 28-31, 33-34, 37-51, 56-57, 59-62, 65-79, 84-85, 87-93, 96-102, 126-131, 133-146, 149-163, 168-171, 173-174, 177-191 and 196 stand rejected under 35 U.S.C. §102(b) for allegedly being anticipated by U.S. Patent No. 6,134,511 ("Subbarao").

Claim 1 recites in part, providing a first representation of the building, wherein the first representation of the building includes a complete and detailed geometry of: the building, spaces in the building, building surfaces and building openings.

Subbarao discloses that the input for the simulation is prepared from information gathered from a building audit. *See* 5:52-56. Examples of the building shell audit values 122 are wall thickness, wall construction material, and insulation. *See* 6:41-42. Thus, Subbarao is not understood to teach or suggest a detailed geometry of a building including spaces and openings in the building, as recited in claim 1.

Accordingly, claim 1 and its dependent claims are in condition for allowance. The rejection of claims 126-139 is moot as these claims are canceled. The remaining rejected claims are in condition for allowance for at least the same reasons as claim 1.

Claims 116-120 and 123-125 stand rejected under 35 U.S.C. §102(e) for allegedly being anticipated by Shanahan et al. (U.S. Publication No. 2005/0022114).

Claim 116 recites in part, identifying a result set of the at least one information providers that have criteria at least partially satisfied by the building representation and an energy analysis of the building representation. The relied upon portions of Shanahan are not understood to disclose identifying a result set based on criteria satisfied by an energy analysis of a building representation. In contrast, Shanahan mentions simulating buildings under earthquake and fire conditions. *See* ¶272.

Accordingly, claim 116 and its dependent claims are in condition for allowance.

Section 103 Rejections

Claims 7-8, 24-27, 35-36, 52-55, 63-64, 80-83, 94-95, 132, 147-148, 164-167, 175-176, and 192-195 are rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over

Subbarao in view of Ananian et al. (U.S. Patent No. 6,922,701). Claims 103-115 are rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Subbarao in view of Ananian. Claims 121-122 are rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Shanahan in view of Subbarao.

All of the pending claims remain in condition for allowance in view of the rejections under 35 U.S.C. §103(a) as Ananian fails to remedy the deficiencies in Subbarao and Shanahan.

Conclusion

By responding in the foregoing remarks only to particular positions taken by the examiner, the Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, the Applicant's arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist. Finally, the applicant's decision to amend or cancel any claim should not be understood as implying that the applicant agrees with any positions taken by the examiner with respect to that claim or other claims.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

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